

TJL

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/656,083	ZIRPS ET AL.
	Examiner	Art Unit
	Gary Jackson	3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the amendment filed July 28, 2005.
2.  The allowed claim(s) is/are 1-3 and 11-21 (1-3, 7-8, 10, 9, 11, 4-6, 12, 13 and 14 respectively).
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
 Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
 Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
 of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
 Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### **EXAMINER'S COMMENT**

This action is responsive to applicants' amendment filed July 28, 2005. The arguments filed therein are deemed to be persuasive and therefore the rejection under 35 USC 102(e) set forth in the Office Action mailed January 24, 2005 has been withdrawn.

Claims 1-3 and 11-21 are pending in this application. Claims 4-10 have been cancelled.

#### *Drawings*

The drawings were received on July 2, 2004. These drawings are acceptable.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: The closest prior art of record fail to teach or suggest each of the limitations recited claim 1, the only independent claim in this application.

US Patent 5,423,834 to Ahmed is substantially close to the claims, however, it fails suggest at least three sleeve members wherein the inner sleeve is mountable over an endoscope and a middle sleeve carrying a ligating band. Ahmed's inner sleeve is adapted to carry the ligating band. (See column 6, lines 11-18 and Figure 6).

US Patent 6,464,685 to Suzuki et al discloses the o-rings (ligating band) on the outer surface of the inner sleeve, (rather than the middle sleeve as recited in claim 1 of the present application); further the outer sleeve is not slid able relative to the middle sleeve.

US Patent 6,464,685 to Mears fail to suggest mounting a ligating band on the middle sleeve and having an outer sleeve slidable relative to the middle sleeve.

US Patent 5,569,268 to Hosoda fail to teach or suggest an outer sleeve movable relative to the middle sleeve and the endoscope E is secured to an endoscope support 2 that is mounted to the outer sleeve. Further, the outer sleeve is not slidable relative to the middle sleeve.

For these reasons, the claims are allowable over the art of record.

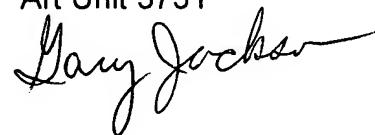
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (571) 272-4697. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Jackson  
Primary Examiner  
Art Unit 3731



gj  
October 26, 2005